



1.5 **Citations Discussed.** WAC 358-30-170, WAC 251-06-050, WAC 251-06-065.

## II. FINDINGS OF FACT

2.1 Appellant Georgetta Lilley is a Speech Pathology/Audiology Clinic Supervisor and permanent employee for Respondent Western Washington University (WWU). Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on November 30, 2000.

2.2 On February 1, 1990, Appellant began employment as a Speech Pathologist for the Department of Communications Sciences and Disorders at WWU. Appellant performed the same job duties as the Department's Clinic Supervisor.

2.3 In 1994, Appellant had informal discussions with WWU's Human Resource staff concerning the allocation of her position. Appellant was orally told that her position was properly allocated. Appellant did not file a formal request for reallocation.

2.4 On July 12, 2000, Appellant's supervisor initiated a position review of Appellant's position. Respondent recognized that Appellant's position was misallocated and as a result, reallocated her position to the Clinic Supervisor classification. Respondent decided to make July 1, 1999, the effective date of Appellant's reallocation. Respondent informed Appellant of its decision to reallocate her position and by letter dated November 6, 2000, Respondent confirmed that the effective date of the reallocation was July 1, 1999, the beginning of the biennium.

1 2.5 By letter dated November 15, 2000, Respondent notified Appellant of her right to appeal the  
2 decision.

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4 2.6 On November 30, 2000, Appellant appealed the effective date of her reallocation.

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6 2.7 WAC 251-06-050 requires an institution to allocate or reallocate each classified position to  
7 an appropriate classification. The rule sets forth the considerations for determining the appropriate  
8 allocation of a position. The rule also requires the institution to notify the employee of the  
9 reallocation, the effective date of the action, and the employee's right of appeal.

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11 2.8 WAC 251-06-065 addresses the effective date for allocations and reallocations. The rule  
12 states:

13 (1) The effective date of allocations or reallocations initiated by the institution shall  
14 be determined by the personnel officer.

15 (2) The effective date of reallocations resulting from an employee or employee  
16 representative request for position review will be established as of the date that the  
17 request is filed with the personnel officer as required per WAC 251-06-060(1).

### 18 **III. ARGUMENTS OF THE PARTIES**

19 3.1 Appellant argues that she has been underpaid since being hired by WWU. Appellant asserts  
20 that there is no basis for Respondent's determination that the effective date of her reallocation  
21 should be any date other than the first day she started performing the duties of her position.  
22 Appellant contends that WAC 251-06-065 permits Respondent to do the right thing in this case.  
23 Appellant asserts that Respondent's determination of July 1, 1999, as the effective date of her  
24 reallocation was inadequate to fully reimburse her for the long-term misallocation of her position.  
25 Appellant asks the Board to order Respondent to make her whole for the shortfall in her salary.

1 3.2 Respondent asserts that under the provisions of WAC 251-06-060, Appellant could have  
2 requested a timely formal position review, however she did not do so. Rather, as required by WAC  
3 251-06-050, the institution initiated the reallocation of Appellant's position. Respondent argues that  
4 WAC 251-06-065 distinguishes between reallocations initiated by the institution and those initiated  
5 by the employee or his/her representative. Respondent contends that the rule grants unrestricted  
6 discretion to the institution to set an effective date for a reallocation initiated by the institution.  
7 Respondent contends that the institution generously awarded Appellant more back pay than it was  
8 obligated to provide. Respondent argues that the institution complied with the relevant rules and  
9 asserts that the appeal should be denied.

#### 10 11 **IV. CONCLUSIONS OF LAW**

12 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter  
13 herein.

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15 4.2 In an appeal of an alleged rule violation, Appellant has the burden of proof. (WAC 358-30-  
16 170). The primary issue before the Board is whether Respondent has discretion to determine the  
17 effective date for a management initiated reallocation request.

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19 4.3 Appellant failed to prove that Respondent violated WAC 251-06-050. Respondent  
20 considered the duties and responsibilities of Appellant's position, reallocated the position, informed  
21 Appellant of the reallocation, and notified her of her appeal rights. Respondent complied with the  
22 provisions of WAC 251-06-050.

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24 4.4 Furthermore, WAC 251-06-065(1) clearly gives Respondent the discretion to determine the  
25 effective date of an institution-initiated reallocation. Respondent properly exercised its discretion  
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1 in this case. While Respondent could have chosen to make the reallocation retroactively effective  
2 to February 1990, nothing in the rule requires Respondent to make such a determination.

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4 4.5 The appeal should be denied.

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6 **V. ORDER**

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8 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Georgetta Lilley is denied.

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10 DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2001.

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WASHINGTON STATE PERSONNEL APPEALS BOARD

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Walter T. Hubbard, Chair

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